

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
Bureau of Human Resources

September 18, 2002

HUMAN RESOURCES MEMORANDUM 12-02

TO: Agency Heads, Directors of Administrative Services, Human Resource
Representatives, Workers' Compensation Designees

SUBJECT: Transitional Duty Positions

Purpose

Workers' compensation claims remain a considerable financial obligation to the State of Maine as an employer. In most cases, injured employees have work capacity and the State of Maine has a continuing responsibility to make every effort to provide suitable return-to-work opportunities for these employees.

In order to facilitate return-to-work initiatives, in 1997 a series of Transitional Duty positions were established through the workers' compensation central fund. The purpose of this memorandum is to reflect the evolutionary changes in the Return-To-Work program that have occurred since its inception in 1997 and to implement the provisions of PL 2001, Chapter 427.

Definition

Transitional Duty positions are work situations designed to facilitate return-to-work initiatives for employees who have active workers' compensation claims, who have work capacity, but whose injury or duration of incapacity may impede return-to-work efforts. The Transitional Duty position is a tool to enable an injured employee to increase his or her work capacity, to provide interim employment pending a more suitable long-term appointment, and/or to provide new skills.

Transitional Duty positions are *temporary* by definition. They provide a means to employ injured workers with the expectation that the transitional duty assignment will develop the employee's capacity to return to permanent, productive employment.

Transitional Duty positions do not replace previously authorized "Workers' Compensation" positions that may exist in various departments for longer term employment arrangements.

Objectives

Transitional Duty positions are intended to accomplish the following:

1. Return employees who have identified work capacity to productive employment with the goal of long-term appointment.
2. Assist injured employees to return to work at a level as close to possible to their pre-injury earnings and productivity.
3. Reduce the state's liability for long-term workers' compensation claims.

Transitional Duty Position Plan

A written formal plan will be required for the use of each Transitional Duty position. In most circumstances the plan will be developed jointly by the Workers' Compensation Case Manager, the Return-to-Work Coordinator, a Medical Case Manager, and the affected agencies.

The plan will include the following:

- The specifications of work to be performed and under what level of supervision.
- Any special accommodations or arrangements required to facilitate the assignment.
- A work capacity evaluation with periodic review.
- Total compensation costs, which includes pay and benefits. Total compensation is derived by adding the workers' compensation rate currently being used and the cost of state-paid benefits. Funding is provided by the workers' compensation central fund and return-to-work costs are applied to the employee's workers' compensation claim.
- Duration of assignment. The initial duration of assignment is six (6) months. Extensions must be approved by the Bureau of Human Resources Workers' Compensation Division. After one year, a determination as to the effectiveness of the transitional duty plan will be reassessed.
- Long-term goal. The plan must identify the job goal for the injured employee, whether it is the transition to a regular appointment in a similar position or to another successful job match.

These provisions are subject to periodic review and adjustment. Transitional Duty Position plans should clearly establish the frequency of reviews to ensure that the work assignment and any accommodations are consistent with the long-term job goal.

Responsibility of Originating Agency

The "originating agency" is defined as the agency or department in which the injury occurred and the claim was established. The costs associated with the claim are the responsibility of the originating agency and that responsibility stays in effect as long as the claim remains active.

The workers' compensation central fund will fund all costs associated with a transitional duty assignment. The originating agency's financial responsibility applies whether the employee is assigned to a Transitional Duty position in the originating agency or another agency. These costs will be applied to the active claim which will ultimately impact the originating agency's premium.

Human Resource and Payroll Processing

The Workers' Compensation Central Fund will provide compensation, including state-paid benefits, to the employee at the appropriate level. Benefits and status will be assigned, as appropriate, consistent with the position held at the time of injury. Union representation, dues, and insurance are afforded to transitional duty employees. Representation is limited to terms and conditions of employment unrelated to work capacity, the rehabilitation effort, or any other matter prescribed or controlled by the workers' compensation law unless such terms are specifically negotiated as authorized by Maine's workers' compensation law.

Workers' Compensation Processing Companies: Employees who are working in Transitional Duty positions will be processed under one of two payroll processing companies. Transitional duty employees will be assigned to the pay cycle that best matches the return-to-work effort:

Cycle A agencies: 01810

Cycle B agencies: 01820

Employees who are currently employed, but out on paid workers' compensation leave: The originating agency will place the employee on unpaid leave to accept transitional duty, leave code B, and will provide the RTW Coordinator with the employee's vacation accrual rate, vacation balance, and sick leave balance.

Employees who have been terminated and return to an RTW position: The originating agency will provide the RTW Coordinator with benefit information to restore the employee's vacation accrual rate, sick leave balance, and a copy of the termination letter.

Time and Attendance Processing: All employees who are working in Transitional Duty positions will require time and attendance processing to receive a paycheck. The hours that a Transitional Duty employee works in a pay cycle may vary. Agencies must

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provide the RTW Coordinator with the Transitional Duty employee's hours worked, recorded on a time sheet that will be provided to the agency when a transitional duty assignment is made, or in such other manner as may be subsequently prescribed. Timesheets must be received weekly by the RTW Coordinator not later than the Monday following each workweek.

S/ Donald A. Wills

Donald A. Wills, Director
Bureau of Human Resources

DAW/pjs